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*Counsel for Trans Union, LLC*

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY (TRENTON)**

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SHAWN R. DUNPHY and  
CYNTHIA HUGHES-DUNPHY,  
Plaintiffs,

CASE NO. 3:18-cv-12566-MAS-DEA

vs.

Judge Michael A. Shipp  
Magistrate Judge Douglas E. Arpert

EXPERIAN, EQUIFAX and TRANSUNION,  
Defendants.

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**TRANS UNION, LLC'S ANSWER TO PLAINTIFFS' COMPLAINT  
AND AFFIRMATIVE DEFENSES**

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Trans Union, LLC ("Trans Union"), by counsel, responds to Plaintiffs' Complaint (the "Complaint") as follows. For the Court's convenience, Plaintiffs' allegations are set forth verbatim with Trans Union's responses immediately following.

1. Update of Plaintiff's [sic] credit files per the certification in support of this motion.

**ANSWER:** Trans Union denies that Plaintiff is entitled to any damages, costs, fees or other relief from or against Trans Union.

2. A full credit report from each credit reporting agency with credit score after a settlement has been reached to reflect updates.

**ANSWER:** Trans Union denies that Plaintiff is entitled to any damages, costs, fees or other relief from or against Trans Union.

3. Reimbursement of all court fees.

**ANSWER:** Trans Union denies that Plaintiff is entitled to any damages, costs, fees or other relief from or against Trans Union.

[4]. [sic] The amount Plaintiff's [sic] are demanding from the defendants' \$ 15,000.00 [sic]

**ANSWER:** Trans Union denies that Plaintiff is entitled to any damages, costs, fees or other relief from or against Trans Union.

[5]. [sic] Plaintiffs do not need any accommodations for disabilities or an interpreter.

**ANSWER:** Trans Union states that it lacks knowledge or information sufficient to form a belief about the truth of these allegations, which has the effect of a denial under Rule 8(b)(5).

[6] [sic] Plaintiffs certify that the matter in controversy is not the subject for any other court action or arbitration proceeding, now pending or contemplated, and that no other parties should be joined in this action.

**ANSWER:** Trans Union states that the allegations of this paragraph are legal conclusions and, so stating, denies them.

[7] [sic] Plaintiffs certify that confidential personal identifiers have been redacted from documents now submitted to the court and will be redacted from all documents submitted in the future in accordance with RULE 1:38-7(b).

**ANSWER:** Trans Union denies that the statements contained in this paragraph require a response from Trans Union.

1. [sic] In 2015 Plaintiffs fell into a financial hardship resulting in the late pay of many bills.

**ANSWER:** Trans Union states that it lacks knowledge or information sufficient to form a belief about the truth of these allegations, which has the effect of a denial under Rule 8(b)(5).

2. [sic] In 2015 Plaintiffs' daughter became ill resulting in several trips to the ER and admittance to the hospital between 2015 and 2018. This caused a serious financial hardship on Plaintiffs.

**ANSWER:** Trans Union states that it lacks knowledge or information sufficient to form a belief about the truth of these allegations, which has the effect of a denial under Rule 8(b)(5).

3. [sic] Plaintiffs became financially strapped trying to support their daughter and keeping up with their own bills as well as putting 2 other children through college. Plaintiffs subsequently paid some bills late repeatedly through 2016.

**ANSWER:** Trans Union states that it lacks knowledge or information sufficient to form a belief about the truth of these allegations, which has the effect of a denial under Rule 8(b)(5).

4. [sic] Plaintiff Shawn Dunphy has been working 2 jobs and took additional shifts to rebound and avoid filing a second bankruptcy.

**ANSWER:** Trans Union states that it lacks knowledge or information sufficient to form a belief about the truth of these allegations, which has the effect of a denial under Rule 8(b)(5).

5. [sic] In 2016 Plaintiff's attempted to refinance their home but were denied due to the 8 year old bankruptcy currently reporting in plaintiff [sic] Shawn Dunphys' credit file. This negative mark has caused a very low credit score which has caused an additional hardship to the Plaintiffs as they are unable to get any credit and or loans to pay off debt or make repairs to their home.

**ANSWER:** Trans Union states that it lacks knowledge or information at this time sufficient to form a belief about the truth of these allegations as they apply to Trans Union, which has the effect of a denial under Rule 8(b)(5). Trans Union states that it lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations, which has the effect of a denial under Rule 8(b)(5).

6. [sic] Plaintiffs are trying to obtain financing from NJ Gas for a gas conversion as it is becoming unaffordable to purchase oil and maintain [sic] oil tank but have been denied because of late pays and Shawn Dunphy's eight year old bankruptcy. This is causing the Plaintiffs a serious financial hardship.

**ANSWER:** Trans Union states that it lacks knowledge or information sufficient to form a belief about the truth of these allegations, which has the effect of a denial under Rule 8(b)(5).

7. [sic] Since 2016 the Plaintiffs have worked very diligently to improve their credit files and raise their scores. Plaintiffs have shown on time payment history since recovering from this financial hardship. However Plaintiffs are still struggling and cannot obtain credit, refinancing on their home or any loans to continue to pay down debt and lower the monthly mortgage payment because if [sic] the credit report status.

**ANSWER:** Trans Union states that it lacks knowledge or information sufficient to form a belief about the truth of these allegations, which has the effect of a denial under Rule 8(b)(5).

8. [sic] Plaintiffs were recently at odds with their mortgage company The Money Source for reporting inaccuracies to the credit reporting agencies. This had significantly negatively impacted the Plaintiffs and resulted in a legal action against The Money Source but an amicable settlement has been reached. However the credit reporting agencies are still reporting incorrectly to plaintiff Shawn Dunphy's credit files since the settlement was reached and The Money source

notified the credit reporting agencies. Because of this it is still causing a financial hardship to the Plaintiffs.

**ANSWER:** Trans Union states that it lacks knowledge or information at this time sufficient to form a belief about the truth of these allegations as they apply to Trans Union, which has the effect of a denial under Rule 8(b)(5). Trans Union states that it lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations, which has the effect of a denial under Rule 8(b)(5).

9. [sic] Plaintiffs have written countless letters to the credit reporting agencies to request the following; [sic]

- a). The removal of the 8 year old bankruptcy
- b). The update to The Money Source Account for Shawn Dunphy
- c). An investigation in to the late entries on several of Cynthia Hughes accounts that she has disputed.
- d). Copies of the letters of verification from the credit reporting agencies to the account companies in question.

**ANSWER:** Trans Union states that it lacks knowledge or information at this time sufficient to form a belief about the truth of these allegations as they apply to Trans Union, which has the effect of a denial under Rule 8(b)(5). Trans Union states that it lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations, which has the effect of a denial under Rule 8(b)(5).

9. [sic] Plaintiffs have demonstrated good payment history since recovering from the hardships they were faced with in 2016. Plaintiffs had good cause for falling behind and made every effort to recover.

**ANSWER:** Trans Union states that it lacks knowledge or information sufficient to form a belief about the truth of these allegations, which has the effect of a denial under Rule 8(b)(5).

10. [sic] Plaintiffs are attempting to refinance again so they can obtain a lower monthly payment on their mortgage. They will be able to do this by dropping PMI and receiving a lower interest rate. In addition Plaintiffs are hoping to pay off some debt and finish the construction that remains unfinished in their home since 2015. Without a cleaner credit report and improved score Plaintiff run a greater risk of being denied credit yet again.

**ANSWER:** Trans Union states that it lacks knowledge or information sufficient to form a belief about the truth of these allegations, which has the effect of a denial under Rule 8(b)(5).

11. [sic] Plaintiffs have written numerous letters to the credit reporting agencies to try and resolve the items mentioned in this complaint and certification but unfortunately it appears that they are unwilling to help us and reach a solution.

**ANSWER:** Trans Union states that it lacks knowledge or information at this time sufficient to form a belief about the truth of these allegations as they apply to Trans Union, which has the effect of a denial under Rule 8(b)(5). Trans Union states that it lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations, which has the effect of a denial under Rule 8(b)(5).

### **AFFIRMATIVE DEFENSES**

1. Plaintiffs have failed to state a claim against Trans Union upon which relief may be granted.

2. Plaintiffs' state law and common law claims are pre-empted by the Fair Credit Reporting Act, 15 U.S.C. § 1681, et seq.

3. Trans Union's reports concerning Plaintiffs were true or substantially true.

4. Trans Union has at all times followed reasonable procedures to assure maximum possible accuracy of its credit reports concerning Plaintiffs.

5. Plaintiffs' claims are barred, in whole or in part, by the applicable statute of limitations.

6. Plaintiffs' claims are barred, in whole or in part, by 15 U.S.C. §§ 1681h(e) and/or 1681t.

7. At all relevant times, Trans Union acted within the absolute and qualified privileges afforded it under the FCRA, the United States Constitution, applicable State Constitutions and the common law.

8. Plaintiffs' claims are barred, in whole, or in part, by the equitable theories of estoppel, waiver and laches.

9. Plaintiffs have failed to take reasonable steps to mitigate their damages, if any.

10. Plaintiffs' damages are the result of acts or omissions committed by Plaintiffs.

11. Plaintiffs' damages are the result of acts or omissions committed by the other parties over whom Trans Union has no responsibility or control.

12. Plaintiffs' damages are the result of acts or omissions committed by non-parties to this action over whom Trans Union has no responsibility or control.

13. Any claim for exemplary or punitive damages asserted by Plaintiffs violates Trans Union's rights under the Due Process and Excessive Fines clauses of the Fifth, Sixth, Eighth and Fourteenth Amendments to the United States Constitution and the analogous provisions of applicable State Constitutions and under the First Amendment of the United States Constitution and the analogous provisions of applicable State Constitutions.

14. Trans Union reserves the right to assert additional defenses as may become apparent through additional investigation and discovery.

WHEREFORE, Defendant Trans Union, LLC, by counsel, denies that Plaintiffs are entitled to judgment or to any of the relief sought, and respectfully requests that judgment be entered in its favor and against Plaintiffs on all counts set forth in the Complaint, and that Trans Union, LLC, be awarded its costs incurred in defending this action, along with such other relief as this Court deems equitable and just.

Date: August 14, 2018.

Respectfully submitted,

/s/ William R. Brown

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*Counsel for Defendant Trans Union, LLC  
(improperly identified as Transunion)*



**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing has been filed electronically on the **14th day of August, 2018**. Notice of this filing will be sent to the following parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's electronic filing.

Dorothy A. Kowal, Esq. <a href="mailto:dkowal@pricemeese.com">dkowal@pricemeese.com</a>	
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The undersigned further certifies that a true copy of the foregoing was served on the following parties via First Class, U.S. Mail, postage prepaid, on the **14th day of August, 2018** properly addressed as follows:

<b><u>Pro Se Plaintiffs</u></b> Shawn R. Dunphy Cynthia Hughes-Dunphy 705 Paramount Way Brick, NJ 08724	
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*Counsel for Defendant Trans Union, LLC  
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